

-IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

JAN 20 2005

JOHN J. CRIGLER, JR.
BY *[Signature]*
DEPUTY CLERK

ESTELLE E. WILLIAMS,

) CASE NO. 3:02CV00092

Plaintiff

)

v.

) REPORT AND RECOMMENDATION

JO ANNE B. BARNHART
Commissioner of Social Security,

) By: B. Waugh Crigler
U. S. Magistrate Judge

Defendant

)

The Commissioner having responded to the plaintiff's December 19, 2004 "Motion for the Attorney's Fee Pursuant to 42 U.S.C. § 406B" (Motion), indicating that she has no objection to an award of the amount sought, provided that the amount to be paid out of withheld benefits be reduced by the \$3,239.07 which counsel for plaintiff holds in escrow, leaving the \$692.92 as the balance to be paid by the Commissioner, it is

R E C O M M E N D E D

that an Order enter awarding plaintiff's counsel a fee in the amount of \$3,932.00 to be paid as follows: (a) the sum of \$3,239.07 out of the escrow held by plaintiff's counsel and (b) the sum of \$692.92 out of the withheld benefits. The balance of withheld benefits then should be paid over to the plaintiff by the Commissioner.

The Clerk is directed to immediately transmit the record in this case to the presiding District Judge. Both sides are reminded that pursuant to Rule 72(b) they are entitled to note objections, if any they may have, to this Report and Recommendation within (10) days hereof. Any adjudication of fact or conclusion of law rendered herein by the undersigned not specifically objected to within the period prescribed by law may become conclusive upon the parties. Failure to file specific objections pursuant to 28 U.S.C. § 636(b)(1)(C) as to factual recitations or findings as well as to the conclusions reached by the undersigned may be construed by any reviewing court as a waiver of such objection. The Clerk is directed to send a certified copy of this Report and Recommendation to all counsel of record.

ENTERED:


Judge

1-20-2005

Date